

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-8560-2023

Date of Decision:-20.02.2024

Balwinder Singh @ Billa.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. GPS Ghuman, Advocate,
Mr. Atul Kumar, Advocate &
Mr. D.S. Virk, Advocate for the Petitioner.

Mr. Deepinder Brar, Sr. Deputy Advocate General, Punjab.

Mr. Mohit Shukla, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.326 dated 17.09.2020 under Sections 307, 325, 324, 323, 506, 427, 120-B IPC registered at Police Station Patran, District Patiala, Punjab.

2. The present FIR came to be registered at the instance of Sukhwinder Singh son of Sh. Iqbal Singh which reads as under:-

“ At present it is reported that a statement of Sukhwinder Singh son of Iqbal Singh R/o Village Gulzarpura Tharua Police Station Patran District Patiala aged around 41 years, Mobile Number 98771-83352 written by SI Sandeep Singh Incharge Police Post Tharua for registration of case against Balwinder Singh alias Billa son of Lakhwinder Singh, Subeg Singh son of Teja Singh Residents of Gulzarpura Tharua and 4 other unknown

persons under offence 307, 325, 324, 323, 506, 427, 120-B of IPC has been received by hand through Constable Paramjit Singh 2369 in Police Station, the contents of the same is as under. Stated that I am resident of above mentioned address and I am doing Agriculture work. Yesterday on dated 16.09.2020 I while boarding my Motorcycle Number PB 11 AQ 7057 make Hero Honda Passion Pro Red coloured had for my domestic work at Khanauri. After doing domestic work I was coming back upon my Motorcycle at my village Gulzarpur Tharua, when I reached near Dera Kisan Singh Sergarh time at around 06:40 PM and saw that Balwinder Singh alias Billa son of Lakhwinder Singh R/o Gulzarpur Tharua who was while parking his white coloured Swift Dezire Car bearing Number HR 26 CA 8262 was already standing outside near Grid upon the culvert and 4 unknown persons were sitting in the Car, they upon seeing me while going on Motorcycle Balwinder Singh above named started chasing me in his above numbered car and who with an intention to kill me fate his Car with my Motorcycle as a result of which I felled down in the fields along with my Motorcycle resultantly my vault which contains money fell down from my trouser and Balwinder Singh above named stopped his Car saw me who saw the persons sitting in his Car that Sukhwinder Singh has survived, so let us give him some more treatment, then the four unknown persons sitting in the Car came out along with their respective weapons and Balwinder Singh above named also took out small Tomahawk from the boot of his Car, upon seeing them with weapons I about to run then above named persons encircled me coming and Balwinder Singh alias Billa with the Tomahawk which he was carrying in his hand with an intention to kill me about to give blow upon my head then I put my both the hands upon my head for my survival then reverse blow of the Tomahawk of Balwinder Singh alias Billa hit me upon the fingers of my right hand, with this blow blood started oozing out from my fingers and due to pain on the fingers of right hand I put my both the hands down from head then Balwinder Singh alias Billa again gave me Tomahawk blow upon my head then due to oozing out substantial blood from my head I fell down then while I was lying down unknown persons with their weapons gave me contusion injuries upon my legs and other body and one unknown person gave me blow of cricket bat which he was carrying in his

hand upon my knee as a result of which knee pan of my knee also broken then above named persons while leaving were saying to each other that he has died lets go, then above named persons went towards Kaithal side while boarding their car along with their weapons, then I raise clamor then upon hearing my clamor passerby gathered they called at my home then my brother Hardeep Singh came to the spot who made arrangement of the vehicle first of all admitted me for treatment at CHC Patran then the Doctor referred me to CH Samana for treatment, where I am undergoing treatment. The cause of grudge is that in front of our houses there is a joint place for garbage and Balwinder Singh and Subeg Singh son of Teja Singh R/o Gulzarpura Tharua forcibly want to occupy our garbage place for farming, as a result of which Balwinder Singh in consultation of son of his Uncle Subeg Singh, Balwinder Singh above named while bringing along with him 4 unknown persons first of all struck his Car in my Motorcycle with an intention to kill me and by assaulting me have inflicted injuries to me and lot of damage has been caused to my above numbered Motorcycle, unknown persons who in collusion with Balwinder Singh alias Billa have inflicted injuries to me I can identify them upon confrontation. Appropriate legal action may be initiated against them I have read over my statement, read over and is correct. SD Sukhwinder Singh."

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case on account of a property dispute between the parties. There was a delay of more than 24 hours in the registration of the FIR which clearly indicates that it was an afterthought and the entire prosecution version has been concocted. As per the MLR only one injury was sharp and the rest of the injuries were blunt. Therefore the prosecution version of the petitioner giving a sharp edged weapon injury becomes unbelievable. The opinion of the doctor had also not been sought to ascertain whether the injuries suffered by the complainant was a result of a motor vehicular accident or any other incident. As the petitioner was a first

time offender, in custody since 22.07.2022 and only 02 out of the 22 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State and the Counsel for the Complainant on the other hand contend that the petitioner was the main accused. The nature of the allegations levelled against him did not entitle him to the grant of bail. They however concedes that the petitioner was a first time offender, in custody since 22.07.2022 and only 02 out of the 22 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the complainant and another relevant witness namely Hardeep Singh have been examined as prosecution witnesses. Therefore, there is no likelihood of the witnesses being pressurized by the petitioner if he is granted the concession of bail. The petitioner is a first time offender, in custody since 22.07.2022 and only 02 out of the 22 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Balwinder Singh @ Billa** son of Sh. Lakhwinder Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned

on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 20, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No